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KING STREET

ORDERED TO PAVE OR LOSE CHARTER TRANSIT CO. IS TO CONTEST IN COURT

Attorney General Quotes Law Declaring Corporation Has Not "Leg to Stand On": Ballentyne Comes Back with Another Extract from Statute and Promises Litigation

With Attorney General Alex. Lindquist declaring that the Rapid Transit "has not a leg to stand upon" in the paving controversy, and Superintendent Ballentyne of the company asserting that the supervisors and the government officials are not acting in the best interests of the Territory of Hawaii, and with the service of a writ of mandamus ordering the Rapid Transit to proceed within ten days to pave between its tracks with bitulith, the whole affair promises to go before the Supreme Court of the United States.

The question which will be definitely decided for many years, or possibly for years.

The notice to be served on the Rapid Transit today is not a mandamus proceeding, said the Attorney General this morning. "It is a warning of a proceeding for forfeiture of the company's franchise unless the conditions outlined by the Territory are complied with. The statute is quite plain on that point, and the company has not a leg to stand upon."

The Supreme Court of the Territory virtually decided that much in its recent decision on a submission of agreed facts.

Superintendent Ballentyne, on the other hand, charges that the Territory is taking the longest road around to attain a certain definite end—namely, the installation of a satisfactory pavement. He quotes a clause of the company's charter, to prove it, showing that when the company fails to do such paving the government may lay it and assess the expense against the company.

Notice to Company.
The notice formally drawn by the Attorney General and sent to the company under the signature of Marston Campbell, superintendent of public works, is as follows:

Gentlemen:—The portion of King street between the sidewalks and one foot outside of the outer rails of your tracks in the City and County of Honolulu, extending from Nuuanu street to the bridge over Nuuanu stream, having been paved with bitulith pavement of two inches in depth over a concrete foundation, notice is hereby given you, in accordance with the law applicable thereto and particularly the law as set forth in Chapter 64 of the Revised Laws of Hawaii, to pave with similar material and in similar manner the portion of said street occupied by your tracks and one foot outside of the outer rails thereof, said paving to be flush with said street and to correspond with the paving of said remaining portion of said street.

You are further notified that in case of your failure to comply with this notice within ten days from date, or to give, within said ten days, satisfactory assurances that you will comply with this notice within a reasonable time, proceedings will be instituted before the proper tribunal to have the franchise now held by you and all rights and privileges granted thereunder forfeited and declared null and void.

High Court to Decide.

Superintendent Ballentyne declares the case will be carried up to the highest tribunal, and that the company will make no move to do the paving between its tracks until the decision of the United States Supreme Court is given. At the same time he says that an order has been placed with the Hawaiian Development Company for obla blocks for King street, and that these will be ready for use as soon as the suit is settled. The obla blocks are the material that the company has been wanting to use, but which the city and county supervisors have objected to.

The Attorney General will base his side of the case on Sections Nos. 838 and 870 of the Revised Statutes of the Territory. Section No. 838, paragraph 9, reads in part as follows:

"Said association, whenever the streets are paved or macadamized,

shall pave or macadamize the entire space between their tracks, or between the outside rails of the double tracks, if more than one track be laid, and for one foot outside the outer rails, and such paving or macadamizing shall be flush with the streets and correspond with the paving or macadamizing of the remaining portion of said street; and shall be so laid that the rails shall be flush with the streets. And the said association and others shall keep their tracks and their portion of all the streets in good repair, such repair when made to be approved by the Superintendent of Public Works. Repairs, when ordered by said Superintendent of Public Works, in writing, shall be made by said association and others within ten days of the date of said order."

The order mentioned above is the order that was served on the company by the superintendent of public works today, and the action for forfeiture will be started after ten days have elapsed if the company has made no move to obey the order.

Law Covering Action.
Section 870 contains the provision regarding the forfeiture of the franchise, and reads as follows:

"Whenever said Association—refuses to do or fails to do or perform or carry out or comply with any act—required to be done under the provisions of this chapter and shall continue so to refuse—after due notice by the superintendent of public works to comply therewith, the superintendent of public works shall, with the consent of the Governor cause proceedings to be instituted before the proper tribunal to have the franchise granted by this chapter and all rights and privileges granted hereunder, forfeited and declared null and void."

Up till ten thirty this morning Manager C. G. Ballentyne, of the Rapid Transit Company, had not received the reported notice from the Territorial Government, commanding the company forthwith to pave King street with bitulith where the county had laid that kind of pavement, under penalty of having proceedings brought against it for the forfeiture of its franchise.

In the view of the law taken by the manager, the government has a much simpler remedy under the law than the radical process of charter smashing—namely, to do the paving itself and present its bill.

Mr. Ballentyne called attention to paragraph 9 of section 838—"Method of Construction"—which, after directing that the company's part of the paving "shall be flush with the streets, and correspond with the paving or macadamizing of the remaining portion of said street," etc., says: "Repairs, when ordered by said superintendent of public works, in writing, shall be made by the said association and others within ten days of the date of said order."

A subsequent section, 864, however, Mr. Ballentyne pointed out, commanded the Territory of Hawaii to do the work in the case of neglect by the company to do it. This section says: "And in all cases of street improvements by the Territory"—now meaning the municipality—then said association and others shall conform to all such improvements, in the kind of pavement and manner of laying the same as directed by the superintendent of public works.

"In case of neglect by the said association and others to make such repairs, changes or improvements required of it by this section, they shall be made by the officers, servants and employees of the Territory of Hawaii, and the cost of such repairs, changes or improvements may be recovered by the said Territory from the said association and others."

John Marcellino acting as master on the seventeenth annual account of the trustees of the C. R. Bishop Trust, filed his report in circuit court this morning recommending the account be approved. The accounts show receipts for the past year of \$107,039.07, and disbursements amounting to \$94,918.79.

SEC. KNOX HERE

(Continued from Page 1)

against foreign vessels, the Secretary distributed one of his most engaging smiles, and waved the question away. "It is not the policy of the State Department to discuss questions of this kind, or for individuals to express opinions," said he. "In this specific case, the legislation you speak of has been passed since I left Washington, and I am not familiar with all its present angles. I really couldn't be expected to say anything at all on this subject."

Neither would the Secretary say whether the claim of Great Britain was an arbitrable matter, or whether the discrimination in favor of American ships could be construed as violating any of the terms of the Hay-Pauncefote treaty. All questions of canal politics he waved aside, and pleasantly but firmly changed the subject to less delicate matters.

Hawaii and the Canal.
Over the commercial advantages of the canal to Honolulu he waxed enthusiastic.

"On my return from my South American trip last March, I gave a talk in San Francisco on this subject," said the Secretary. "I went fully into the advantages, commercial and otherwise, that would come to the entire Pacific Coast with the opening of the Panama Canal, and what applies to the West coast applies in an even greater degree to the Hawaiian Islands. You will be on a direct route between Europe and the Far East, and it is easy to figure the advantages of such a condition. Canal Open Next July."

"The canal is sure to be opened ahead of time. When I was in the Canal Zone last winter, Colonel Sibert, who had charge of the Gatun dam, told me that while the ditch would not be formally opened, ships would be passing through from ocean to ocean by July 1913."

Asked what observations he had made during his South American trip regarding gradual absorption of the coastwise steamship lines by British companies, looking toward the great increase of trade that will come with the opening of the canal, Secretary Knox said that for a good while England had been more active than America in matters of the merchant marine. Further than this he would not comment.

While Knox, the watchdog of the State Department, is naturally cautious and reserved, Knox the man, is a courteous and genial gentleman, with a keenly developed sense of humor, and a wide understanding of men and events. He impresses one as thoroughly enjoying the moment, and storing away all passing information for future reference.

Mr. and Mrs. Knox at Moana.
The Secretary landed in a light business suit and Panama hat, and did not don the regalia of officialdom until later in the day. He and Mrs. Knox took a stroll along the beach, and out on the Moana pier, as soon as they arrived at the hotel, and expressed themselves as delighted with Waikiki, and what they had already seen of Honolulu. When he returned to the hotel veranda, Secretary Knox received several callers, General M. Macomb, accompanied by his aide, Lieutenant Andrews, being one of the first to arrive.

Admiral Cowles, accompanied by Lieutenant Stevens, captain of the yard, called on the Secretary soon after General Macomb. Later in the morning Admiral Reynolds and Mr. Miller, accompanied by Colonel Jones, adjutant general of the National Guard of Hawaii, returned the calls on both Admiral Cowles and General Macomb.

By 9:45 the Secretary, together with Admiral Reynolds and Mr. Miller, was whirled away in another motor car to the palace, where the foreign diplomatic and consular representatives met at 10 o'clock to pay their respects to the head of the State Department. The party was escorted from the hotel to the executive grounds by Secretary Mott-Smith, Glitter of Gold Lace at Function.

It is seldom that Honolulu sees the glitter of gold lace and the sparkle of orders that go with diplomatic uniforms, and the consuls who appeared in uniform were in striking contrast to those who wore the conventional frock coat and silk hat.

The throne room presented a bril-

WHITE SLAVES FOR HONOLULU TAKEN FROM MANCHURIA

Revenue Cutter Chases Liner Outside of Three-Mile Limit, and Four Women Are Forced to Leave Vessel and Return to San Francisco; Arrival of Mysterious Woman Recently Is To Be Investigated

What is declared this morning to have been the most gigantic and elaborate attempt upon the part of Coast parties to ship white slaves into the Territory of Hawaii, was nipped in the bud by the arrest of a richly-gowned woman, together with three female companions, who had taken passage in the Pacific Mail liner Manchuria, at San Francisco, according to the story brought by officers of that vessel on arrival at Honolulu this morning.

The big steamship had cleared the Golden Gate, and was well outside the three-mile limit of the port, when a United States revenue cutter steamed out in the trail of the liner and, following an interchange of signals by means of flags, the Manchuria was overhauled, a squad of officers boarded the vessel and, after a few preliminaries, in which Capt. "Dan" Friele and his officers participated, the Federal authorities were permitted to remove the four young women passengers, amid the intense excitement of two hundred or more fellow passengers.

What is claimed a most flagrant violation of the white slave act led to the arrest and return of the women, who, according to Manchuria officers, were expected to leave the vessel at Honolulu.

Were Fashionably Attired.

Booked as the Misses Heath, Kelly and Ward, under the chaperonage of a "Mrs. Hamilton," the party of fashionably-attired women occasioned a trifle more than passing interest among the crowd of passengers and visitors who thronged the decks of the Manchuria before the sailing hour.

With the departure of the liner from the San Francisco wharf, the party of women disappeared from view, presumably taking to their cabins.

Within a few hours after casting

off, the little Federal tug sounded a warning toot and, following close in the wake of the big transpacific liner, a quartet of Uncle Sam's officers were soon scrambling up the Jacob's ladder lowered for their special benefit.

The arrest of the women was made without a display of resistance upon the part of the accused white slaves. One problem which confronted the officials, both governmental and steamship, was the removal of the fair passengers from shipboard in the open sea. After some discussion the women were persuaded to descend to the awaiting launch by means of the ladder.

Bound for Honolulu.
From what could be gained on board the liner this morning, it was the intention of the party to leave the Manchuria at Honolulu, as inquiries had been made concerning a trip to the volcano. The arrest of the quartet upon a charge of being implicated in "white slavery" proved a genuine surprise to those who witnessed the arrest and removal of the prisoners.

An investigation by officers in the vessel developed the fact that some of the baggage and personal effects of the quartet of women were marked for Yokohama, while other belongings were labeled for removal at Honolulu.

Local officers have bestowed themselves in the matter to an extent that they have decided to make inquiry into the arrival of a rather mysterious woman passenger at Honolulu by a recent liner, whose line of occupation, it is declared, might not bear close investigation. The charge has been made that there is a more or less regular influx of questionable characters passing through the port on transpacific liners, and in a number of instances these parties have decided to remain over to better enjoy the delights of the Paradise of the Pacific.

Plant scene that reminded some of the old timers of the days of the Hawaiian monarchy. Governor Frear was attended by his staff, in white dress uniform, Admiral Reynolds, also in white, gave the navy representation, the Japanese, Spanish, British, Portuguese and Mexican consuls were resplendent in brilliant uniforms, gold lace, and swords, and the remaining representatives of foreign governments, lent a touch of added dignity in regulation afternoon attire.

Secretary and Governor.
Secretary Knox took up his position with Governor Frear at one end of the long room, while the diplomatic representatives lined up against the opposite wall, and, one by one, were led across the floor by Secretary Mott-Smith, and introduced to Secretary Knox. The ceremony did not occupy more than 10 minutes after which the Secretary went with Governor Frear to the latter's office, and enjoyed a chat and a quiet smoke for twenty minutes or so.

Secretary Knox and the members of his party then good-naturedly posed for their pictures on the palace steps, and by the time the trial by camera was over, the ladies of the party arrived, and the official duties of the morning came to a close.

Consular corps at reception.
The members of the diplomatic and consular corps who paid their respects to Secretary Knox were as follows:

Acting Consul Y. Mori, Japan, who was given precedence over the others owing to the nature of Secretary Knox's mission to that country; Vice-Consul R. F. Lange, Belgium; Dr. Marques, consul Panama, Vice-Consul Russia. Consular representative France; Consul General A. de Souza Canavarro, Portugal; Consul Harrington, Great Britain; Consul General I. de Arana, Spain; Consul F. A. Schaefer, Italy; Acting Consul Austro-Hungary; Consul Wm. Lanz, Mexico; Acting Consul Chili; Consul Chen Ching Ho, China; Acting Consul E. Klemp, Denmark; Consul H. Hackfeld, Germany; Norway; Consul H. M. Von Holt, Netherlands; Consul George Bodick, Sweden.

Takes Spin Around City.
After the consular reception, and before the reception which is to be given by Governor Frear at his home this afternoon, Secretary Knox had a rearing spell during which he was taken for a short spin about the city and immediate vicinity. Secretary and Mrs. Knox, Gov. and Mrs. Frear, Secretary and Mrs. Mott-Smith and Mrs. B. F. Dillingham went motoring up Nuuanu and towards Moanalua, returning to the Moana in time for an informal lunch with the Governor as host.

Owing to the fact that the Maryland is scheduled to leave at 1 o'clock tomorrow afternoon, and that Secretary Knox thinks it unwise to delay departure, the trip round the island, which was originally on the program, has been abandoned. A motor trip to the Pali and other points of interest adjacent to the city has been substituted, and it is possible that a short visit will be made to one of the plantations.

Secretary Knox, however, is very anxious to see Oahu, and it was only with the understanding that the trip is to be taken on his return visit, that he consented to give it up.

Admiral Reynolds Here Before.

Rear Admiral Reynolds, who is the naval representative of the United States to the late Mikado's funeral, sees Honolulu for the first time in ten years, and notes many changes and improvements.

"I came here first 33 years ago," said the admiral this morning. "Things were very different then, as you can well imagine. Everybody rode horseback, and there were few carriages, and of course no autos. I was

here last in 1902, and in the ten years that have passed I see many more changes and improvements, although it seems a pity in a way that so much of the individuality of the islands has been lost. When I was here before we used to anchor and tie the ship's stern to the reef. It seemed odd to come right up to the dock this morning."

Mr. Ranford Miller is a State Department official with a long record for efficiency behind him. He is chief of the Division of Far Eastern Affairs, and has been to Honolulu a number of times. Mr. Miller speaks Japanese fluently and knows the country well, and in this he will be a very valuable man on the present trip.

Trip Was Uneventful.
The trip from Seattle of the cruiser Maryland was uneventful, a smooth sea and fair weather accompanying the Knox party all the way across.

It was not until the ship had cleared from Seattle that it was definitely decided that the voyage would be made via Honolulu. The choice of the two routes was put up to Secretary Knox, who, upon inquiry, found that there was little difference in time and that better weather was apt to be met with on the southern route, and chose it accordingly.

"Captain Elliott didn't tell me that he had two daughters in Honolulu until after I had decided to come here," said the Secretary. "When I found that out I was doubly glad that we were coming this way."

The Maryland is today taking on 1200 tons of coal and expects to have full bunkers by evening. Everything will be shipshape for the reception of the Knox party tomorrow noon, and at 1 o'clock the cruiser will cast off and point her nose for Yokohama.

Secretary Knox is still uncertain as to the exact program after reaching Japan. He has cabled for information, but has not yet been advised. For the funeral ceremonies in America, Secretary Knox has aboard the Maryland a wreath from feet in diameter, made of magnolia and cypress leaves. The wreath was made by a Seattle florist on telegraphic orders from Washington.

RULES ADOPTED FOR UNLOADING SULPHUR

The sulphur conflagration at Alakea wharf Tuesday brought to the attention of the harbor commission the fact that imported cargoes of this chemical are not packed or handled with sufficient care, and at its meeting yesterday the commission authorized the formulation of a regulation that will be similar to the rule affecting nitrates and other highly inflammable merchandise.

"At present sulphur is carried in Japanese wicker bags that permit leakage. Hereafter it must be delivered from the ships in receptacles that will prevent any possible exposure to fire."

WASHINGTON, D. C., Aug. 19.

About a week ago Surgeon General Rupert Blue of the public health service casually told a newspaperman he was looking for a guaranteed rat-trap which would catch plague-suspected rodents and intimated that the manufacturer of such a device would get a fat contract. Today Blue's office resembled a hardware store. From all over the country geniuses deluged him with sample traps, blue prints, drawings and models of rodent catchers and suggestions. One inventor submitted plans for a trap which would first imprison the rat and then dash him fifteen feet against the wall with fatal results. Poisoning, drowning and electrocution were included in the thousands of suggestions received.



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WANTED.

We've got 'em. Not the D. T.'s, but the soda water drinkers we were after. We've had to put in another bottling table. Say, our Lemon Root Beer and Orange are fine. Honolulu Soda Water Co., 344 N. Beretania. 4941-t

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726 S. Beretania. Walking distance to center of city. Phone. k-5327-1m

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Pong Inn Co., 1152 Nuuanu. Tel. 3038. Koa furniture to order. Full line of Chinese ebony, embroidery & curios. k-5327-6m

SHIRT MAKERS.

YAMATOYA. 1250 Fort. Shirts, pajamas, kimonos. k-5327-6m

Petit and grand jurors for the October term of federal court will be drawn at 10 o'clock tomorrow morning. The jurors will be called October 14. The case of Hofschlaeger & Co. against the German bark Paul Isenberg was called for hearing this morning, but by agreement of attorney was continued to September 5.

To save the Mahukona wharf from entire disintegration from the backwash of the waves the board of harbor commissioners yesterday decided to have a four-inch slag of properly reinforced concrete laid on the floor.

NEW TODAY

HIGH SHERIFF'S SALE NOTICE.

Under and by virtue of a certain Writ of Execution issued by the Honorable S. Hooikano, District Magistrate of Ewa, City and County of Honolulu, Territory of Hawaii, on the 27th day of August, 1912, in the matter of H. Hackfeld & Co., Ltd., Plaintiff, vs. I. Nishikawa, Defendant, for the sum of Three Hundred Nineteen and 00/100 (\$319.00). Dollars, I did, on the 25th day of August, A. D. 1912, levy upon, and shall offer and expose for sale and sell at public auction to the highest bidder, so much of the property hereinafter referred to as may be necessary to satisfy the said Writ of Execution on the premises of I. Nishikawa's Ice Works, at Alala, District of Ewa, City and County of Honolulu, Territory of Hawaii, at 12 o'clock noon of Tuesday, the 1st day of October, A. D. 1912, all of the right, title and interest of the said I. Nishikawa in and to the following personal property of the defendant unless the sum due under the Writ of Execution, together with interest, costs and my fee and expenses, are previously paid.

PROPERTY TO BE SOLD.
One ice plant, consisting of machinery, tools and other implements connected with said ice plant.

Terms: Cash in United States gold coin.

Dated, Honolulu, City and County of Honolulu, Territory of Hawaii, this 29th day of August, A. D. 1912.

WM. HENRY.

High Sheriff, Territory of Hawaii.

5327—Aug 29; Sept 10, 30

High Sheriff and Warden William Henry was ordered by Circuit Judge Whitney this morning to discharge Akahoshi Ataro, who was released under the poor convict status. Ataro was sentenced to five years' imprisonment and fined \$500 on a charge of assault and battery. He served the required term under the sentence and additional time in lieu of payment of the fine.

Photo-Engraving of highest grade can be secured from the Star-Bulletin Photo-Engraving Plant.

CUSTOMS OFFICERS TAKE SMUGGLERS AND DOPE,
GENERAL HARTWELL SERIOUSLY ILL,
MUST GET U. S. PERMISSION TO BUILD FLOATING DOCK,
HAWAII INSURRECTION CLAIMS TO HAGUE,
DR. MARLATT SAYS "NO FRUIT QUARANTINE YET",
KNOX'S NAME INVOLVED IN CAMPAIGN FUND REVELATIONS,

Are titles of news items that appeared in this paper YESTERDAY—two nty-four hours ago—and were given to the public while they were news.